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Attorneys for Plaintiff  
24 Hour Fitness USA, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT  
OAKLAND DIVISION

24 Hour Fitness USA, Inc.,

Plaintiff,

vs.

Apex Stores, LLC; Apex, LLC; Apex at  
Home, LLC,

Defendants.

No. CV 08 1681 SBA

**STIPULATION AND [PROPOSED]  
ORDER TO EXTEND TIME FOR  
OPPOSITION, REPLY BRIEFING  
DEADLINES**

**[N.D. Local Rule 6-1(b)]**

Plaintiff 24 Hour Fitness USA, Inc. ("24 Hour Fitness" or "Plaintiff") and Defendants Apex Stores, LLC, Apex, LLC and Apex at Home, LLC ("Defendants") hereby file this Stipulation to extend the time for Plaintiff to file its Opposition to Defendants' Motion to Dismiss and for Defendants to file their Reply thereto.

WHEREAS, on June 19, 2008, based upon the Parties' stipulation and proposed order to extend time to file a responsive pleading and to set the briefing schedule for Defendants' Rule 12

1 motion, the Court ordered that Defendants' Rule 12 response to Plaintiffs' Amended Complaint  
 2 be filed on June 30, 2008, and in the event that a July 29, 2008 hearing date were unavailable, any  
 3 corresponding briefs be filed according to the Civil Local Rules.

4 WHEREAS, on June 30, 2008, Defendants filed their Notice of Motion and Motion to  
 5 Dismiss Based on Lack of Personal and Subject Matter Jurisdiction, and Memorandum of Points  
 6 and Authorities Thereon ("Motion to Dismiss"), noticing the hearing before this Court for  
 7 September 9, 2008 at 1:00 PM, because no earlier date was available.

8 WHEREAS, based upon the September 9, 2008 hearing date, Plaintiff's Opposition to  
 9 Defendant's Motion to Dismiss is currently due on August 19, 2008, and Defendant's Reply to  
 10 Plaintiff's Opposition is currently due on August 26, 2008. *See* Civ. L.R. 7-3.

11 WHEREAS, on August 12, 2008, Plaintiff's counsel proposed to Defendants' counsel that  
 12 the deadline for filing Plaintiff's Opposition be extended by two days to August 21, 2008 and that  
 13 the deadline for filing Defendants' Reply also be extended by two days to August 28, 2008.  
 14 Plaintiff's counsel's proposal was intended to accommodate the family vacation schedule of Shari  
 15 Mulrooney Wollman, who has significant day-to-day responsibility for oversight of this case on  
 16 behalf of 24 Hour Fitness, and to allow Ms. Wollman to review Opposition papers prior to filing  
 17 with the Court. The adjustment to Defendants' Reply deadline continues to permit Defendants  
 18 the normal interval of days for filing a reply under Civil Local Rule 7-3.

19 NOW, THEREFORE, it is hereby stipulated and agreed to by the Parties, through their  
 20 respective attorneys of record, that:

21 1. Plaintiff shall have until August 21, 2008 to file their Opposition to Defendants'  
 22 Motion to Dismiss;

23 2. Defendants shall have until August 28, 2008 to file their Reply thereto.

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1 Dated: August 14, 2008

MANATT, PHELPS & PHILLIPS, LLP

2  
3 By: /s/ Britt L. Anderson  
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17 *Attorneys for Plaintiff*

18 Dated: August 14, 2008

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27 *Attorneys for Defendants*

28 *Filer's Attestation: Pursuant to General Order No. 45, Section X(B) regarding signatures, Britt L. Anderson hereby attests that concurrence in the filing of this document has been obtained.*

***PURSUANT TO STIPULATION, IT IS SO ORDERED:***

\_\_\_\_\_  
HONORABLE SAUNDRA BROWN ARMSTRONG

DATED: \_\_\_\_\_